

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

RONALD C. WILLIAMS,

Plaintiff,

v.

K. MCCOY, *et al.*,

Defendants.

Case No. 3:22-CV-00376-CLB¹

**ORDER DENYING MOTION FOR
SUMMARY JUDGMENT AND DENYING
MOTION FOR TEMPORARY
RESTRAINING ORDER**

[ECF Nos. 48, 54]

This case involves a civil rights action filed by Plaintiff Ronald C. Williams (“Williams”) against Defendants Raphael Brice (“Brice”) and Steffen Maskoff (“Maskoff”) (collectively referred to as “Defendants”). Currently pending before the Court is Defendants’ motion for summary judgment. (ECF Nos. 48, 52.)² Williams opposed the motion, (ECF No. 51), and Defendants replied, (ECF No. 53). Also pending before the Court is Williams’s motion for temporary restraining order. (ECF No. 54.)

Williams is in an inmate in the custody of the Nevada Department of Corrections (“NDOC”). The events related to this case occurred while Williams was housed at the Southern Desert Correctional Center (“SDCC”) and the Ely State Prison (“ESP”). Pursuant to the Court’s screening order on Williams’s complaint, he is proceeding on a single First Amendment retaliation claim against Defendants.³ (ECF No. 11.)

///

¹ The parties consented to the undersigned’s jurisdiction to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73. (See ECF No. 35.)

² ECF No. 52 is a late filed erratum to the motion for summary judgment, which contains authenticating declarations.

³ Williams was also permitted to proceed on two other claims against Doe Defendants, however those Does were never identified and therefore those claims necessarily cannot proceed.

1 In support of their motion for summary judgment, Defendants submit numerous
2 exhibits: (1) Docket Sheet from Case No. 2:21-cv-00123-KJD-DJA; (2) Declaration of
3 Defendant Brice; (3) Offender Information Summary (redacted); (4) Historical Bed
4 Assignments; and (5) Inmate Disciplinary History (redacted). (See ECF Nos. 48-1, 48-2,
5 48-3, 48-4, 48-5.)

6 There are several issues with these exhibits. First, at the time of the filing of the
7 motion for summary judgment, none of these documents had been properly authenticated
8 by an NDOC custodian of records. While this has since been remedied by the late filed
9 authenticating declaration, another issue exists. Several exhibits, which purport to outline
10 the incident at issue in this case, are inexplicably redacted. The effect of these redactions
11 is to seal these portions of the documents and restrict public (and Court) access.
12 However, Defendants did not request leave of Court to seal these documents, in direct
13 violation of the Local Rules and controlling case law regarding sealing. See LR IA 10-5.
14 Additionally, there is no evidence that the parties entered a protective order, which would
15 account for the redactions.

16 As this Court has repeatedly instructed the Attorney General's Office, the Ninth
17 Circuit has repeatedly held that unauthenticated documents cannot be considered on a
18 motion for summary judgment. See *e.g.*, *Orr v. Bank of America*, 285 F.3d 764, 773 (9th
19 Cir. 2002); *Wieland v. Board of Regents of Nev. System of Higher Educ.*, No. 23-15339,
20 2024 WL 810445 *1 (Feb. 27, 2024). Moreover, when deciding a motion for summary
21 judgment, the Court may only rely upon documents and exhibits that are capable of being
22 admissible in evidence at trial. See Fed. R. Civ. P. 56(c)(4) & advisory comm. note to
23 2010 amendments. Here, given the cryptic nature of the heavily redacted internal
24 documents and the lack of clarity regarding the authenticity of any of Defendants' exhibits,
25 the Court cannot determine whether these documents and exhibits would be otherwise
26 admissible at trial. Therefore, the Court is precluded from considering these exhibits in
27 deciding Defendants' motion for summary judgment.

28 ///

1 Accordingly, the Court finds that Defendants have failed to support their motion for
2 summary judgment with admissible evidence sufficient to show there are no genuine
3 issues of material fact and that they are entitled to judgment as a matter of law.

4 **I. MOTION FOR TEMPORARY RESTRAINING ORDER**

5 Following full briefing on the motion for summary judgment, Williams filed a motion
6 for temporary restraining order related to alleged new instances of retaliation. (ECF No.
7 54.)

8 Williams has failed to establish or explain how any of these allegations or
9 complaints have any nexus or relationship to the allegations in the underlying complaint,
10 which is limited to an alleged retaliatory transfer in 2021. Therefore, this motion seeks
11 relief based on new allegations—that are distinct from issues presented in the
12 complaint—and must be denied. See *e.g.*, *Padilla v. Nevada*, No. 3:08-cv-410-
13 LRH(RAM), 2011 WL 2746653, at *8 (D. Nev. June 3, 2011) (denying request for
14 preliminary injunction unrelated to claims in the complaint) *Mitchell v. Haviland*, No. 2:09-
15 cv-3012-JAM KJN P, 2014 WL 458218, at *2 (E.D. Ca. Feb. 4, 2014) (denying motion for
16 preliminary injunction where the conduct asserted in the motions is based on new
17 assertions of misconduct unrelated to the acts of misconduct asserted in the complaint);
18 *Burton v. Paramo*, No. 3:17-cv-1953-BEN-KSC, 2017 WL 6048805, at *4 (S.D. Ca. Dec.
19 5, 2017) (denying motion for preliminary injunction seeking injunction claimed retaliation
20 for bringing underlying lawsuit because those acts were separate from claims asserted
21 within the complaint itself.).

22 Like the *Mitchell* and *Burton* cases discussed above, Williams’s motion alleges
23 claims related to retaliation that are distinct from the issues that are proceeding in this
24 case. Accordingly, this Court lacks authority to grant the relief requested, and on this basis
25 alone, the motion must be denied. See *Pac. Radiation Oncology, LLC v. Queen’s Medical*
26 *Center*, 810 F.3d 631, 636 (9th Cir. 2015) (there must be a relationship between the injury
27 claimed in the motion for injunctive relief and the conduct asserted in the underlying
28 complaint, which requires a sufficient nexus between the claims raised in the motion and

1 the claims set forth in the underlying complaint. Absent that relationship or nexus, the
2 district court lacks authority to grant the relief requested.)

3 **II. CONCLUSION**

4 Consistent with the above, **IT IS ORDERED** that Defendants' motion for summary
5 judgment, (ECF No. 48), is denied.

6 **IT IS FURTHER ORDERED** that Williams's motion for temporary restraining order,
7 (ECF No. 54), is denied.

8 **IT IS FURTHER ORDERED** that the Joint Pretrial Order is due by **Monday, May**
9 **13, 2024.**

10 **DATED:** March 27, 2024.

11 
12 **UNITED STATES MAGISTRATE JUDGE**